

SURVIVING SPOUSE RE: FUNERAL ARRANGEMENTS

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Senate Bill 39 as passed by the Senate

Sponsor: Sen. Rick Jones

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 2-21-17

Analysis available at

<http://www.legislature.mi.gov>

SUMMARY:

The bill revises a provision concerning who would be considered a surviving spouse for the purpose of making decisions about the funeral arrangements of a decedent.

Section 3206 of the Estates and Protected Individuals Code (EPIC) establishes the rights and powers of individuals to make decisions about funeral arrangements and the handling, disposition, or disinterment of a deceased person's body after death. An order of priority is specified, with the decedent's surviving spouse being third in priority. (First priority is given to a person designated under federal law to direct the disposition of a service member's remains if the decedent were a service member at the time of death; followed by a funeral representative previously designated by the decedent; and then the surviving spouse. Other relatives such as the decedent's children, grandchildren, parents, and so on are then listed in a specific order.)

Who constitutes a "surviving spouse" for the purposes of making funeral and/or final disposition arrangements is specified in Section 2801 of the Code. Generally speaking, an individual who is divorced from the decedent or whose marriage has been annulled is not a surviving spouse unless he or she is married to the decedent at the time of death by virtue of a subsequent marriage. However, Section 2801 lists several other situations that exclude an individual from consideration as a surviving spouse. One of the exclusions states that an individual who did any of the following for one year or more before the decedent's death is not included as a surviving spouse:

- Was willfully absent from the decedent spouse.
- Deserted the decedent spouse.
- Willfully neglected or refused to provide support for the decedent spouse if required to do so by law.

Senate Bill 39 amends EPIC to no longer exclude an individual described above from consideration as a surviving spouse in regards to having the rights and powers under Section 3206 to make decisions about funeral arrangements for or the final disposition of a deceased person. The bill also deletes references to a "husband and wife" and instead refers to a "married couple." The bill takes effect 90 days after enactment.

MCL 700.2801

FISCAL IMPACT:

The bill would have no fiscal impact on the state or on local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.